

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 2180 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

IDRISHBHAI SALEHBHI

DHUNDHIYAVALA

Versus

STATE OF GUJARAT

Appearance:

MR PB MAJMUDAR for Petitioner

SERVED BY DS for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 16/07/97

ORAL JUDGEMENT

Rule. Mr Nigam Shukla learned AGP waives service on behalf of the respondents. At the request of the learned advocates, this matter is heard today finally.

The petitioner's licence to run the fair price shop came to be cancelled by the authorities on the ground that instead of running the fair price shop by the petitioner himself, he has transferred the same to his brother. The petitioner has challenged the orders at ANnexures-E F & G passed by the District Supply Officer, Godhra, Collector, Panchmahals District, at Godhra and the Secretary, Civil Supplies Department at Gandhinagar, respectively by way of this petition.

The petitioner has annexed letter dated 5.7.90 addressed to the Mamlatdar, Devgadhi Baria, wherein it was inter alia stated that as he is not keeping good health and the Doctor has also advised him to take rest. He has requested to permit his brother to sit there for the purpose of carrying on the business. He has produced the medical certificate also. In view of this, it is clear that the petitioner has in fact, informed the concerned authority with supporting documents. In view of this, it is difficult to hold that the petitioner has permanently transferred the shop in question to his brother as it was for a temporary period. It has been stated at the bar that his brother Khurshidbhai during the pendency of proceedings has also expired and the petitioner is in fact running the fair price shop even till the date. Considering the fact that the licence of the petitioner's shop has not been cancelled by virtue of the pendency of the proceedings as the stay order granted from time to time has continued, and when the petitioner is running the fair price shop at present and since the shop in question was not transferred permanently in favour of his brother, I am of the opinion that the petition is required to be allowed.

In the result, this petition is allowed. The orders at Annexures-E, F & G passed by the respondents are set aside. Rule is made absolute with no order as to costs.
